THE Long Parliament REVIVED:

OR,

An Act for continuation, and the not dissolving the Long Parliament (call'd by King *Charles* the First, in the year 1640.) but by an Act of Parliament.

With undeniable Reasons deduced from the said Act to prove that that Parliament is not yet dissolved.

ALSO,

Mr. *William Prin* his five Arguments fully answered: whereby he endeavours to prove it to be dissolved by the Kings Death, *&c.*

By *Tho. Phillips* Gentleman, a sincere Lover of his King and Country.

LONDON,

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Anno 17. Caroli Regis.

An Act to prevent inconveniencies which may happen by the untimely adjourning, proroguing, or dissolving of this present Parliament.

WHereas great Sums of money must of necessitie be speedily advanced and provided for relief of his Majesties Army and people in the Northern parts of this Realm, and for preventing the imminent danger this Kingdom is in, and for supply of other his Majesties present and urgent occasions, which cannot be so timely effected, as is requisite without Credit for raising the said moneys: Which Credit cannot be obtained untill such obstacles be first removed, as are occasioned by fears, jealousies, and apprehensions of divers His Majesties Loyal Subjects, that this present Parliament may be adjourned, prorogued, or dissolved before Justice shall be duly executed upon Delinquents; publike grievances redressed; a firm Peace between the two Nations of England and Scotland concluded, and before sufficient provision be made for the repayment of the said moneys so to be raised. All which the Commons in this present Parliament assembled having duely considered, do therefore humblie beseech your most excellent Majesty that it may be declared, and Enacted.

And be it Declared and Enacted by the King our Soveraign Lord, with the assent of the Lords and Commons in this present Parliament assembled, and by the Authority of the same, that this present Parliament now assembled shall not be dissolved unless it be by Act of Parliament to be passed for that purpose, Nor shall be at any time or times, during the continuance thereof, prorogued, or adjourned, unless it be by Act of Parliament to be likewise passed for that

purpose. And that the House of Peers shall not at any time, or times, during this present Parliament, be adjourned, unless it be by themselves, or by their own Order: And in like manner, that the House of Commons shall not at any time, or times, during this present Parliament, be adjourned, unless it be by themselves, or by their own Order. And that all, and every thing, and things, whatsoever done, or to be done, for the adjournment, proroguing, or dissolving of this present Parliament, contrary to this Act, shall be utterly void, and of none effect.

The

The Long Parliament revived.

TO the end the Peace of this Nation may be eſtabliſhed upon a firm and laſting Foundation, and that after one ſhipwrack, hardly eſcaped, we run not blindfold again upon a more fatal, and irrecoverable Rock of confuſion: The Author of this ſmall Paper (out of tender compaſſion to his native Country, and with all humble reſpects of due allegiance, and honour to his Royal Majeſty that now is) hath thought fit (with the premiſed Act of Parliament) to offer ſome few Arguments to the World naturally flowing from the authority and reaſon of it: Which if timouſly harkened to, may yet prove a healing remedy againſt the ſad breaches of this ſhattered Kingdome; and prevent thoſe other miſchiefs, which the obſtinacy of injudicious and ſelf-willed perſons will inevitably bring upon themſelves and us. And if convincing reaſon may bear the ſway in this perverſe Age, wherein every man would make his petty private deſigns to be his Law, rather than common equity, or the eſtabliſh'd Law of the Nation, he doubts not of the deſired ſucceſs he aims at, with Gods bleſſing, in this enſuing Diſcourſe.

That the ſafety and happineſs of this Kingdom lies in Parliaments rightly conſtituted, and in the preſervation of their juſt and lawful Priviledges, I ſuppoſe there are none, of what different judgements ſoever in other things, who are Subjects of this Nation, and of ſober principles, but will readily grant it. And if ſo, the contrary thereunto will then without doubt as eaſily be concluded.

Which Maxime being yielded in reference to other Parliaments; it muſt by proportion hold as true in relation to the Long Parliament call'd by the late King *Charles* the firſt, of bleſſed memory

memory in the year 1640. Whose being and Legal Authority is still so visibly existent by vertue of the forementioned Act; that when the Subjects of this Nation have seriously considered of it, they will doubtless see they have no reason to hold themselves safe in their Lives, Liberties, and Estates, till it have made provision in that behalf, and it be legally dissolved according to the Tenour of the said Act by Act of Parliament for that purpose.

And therefore, being that so great a dissecurity to the Subjects, and the Peace of the Kingdom is incumbent hereupon (as who doth not evidently perceive it, in case that Parliament is yet in its legal force and being) how much doth it concern every Subject of this Nation to be groundedly satisfied in this particular, by a solid answering of those objections that seem to militate against the verity of this assertion: That mens minds may be setled, together with the Peace of the Nation upon a sure Foundation of Law and righteousnes; and we may not, like the waves of the Sea, be still fluctuating too and fro in doubts and uncertainties by the divers winds of mens contrary judgements and opinions, to the continual hazard of our dearest concernments.

To evidence the still legal being of that foresaid Parliament, the Act speaks sufficiently for it self in plain and express tearms: Yet to make it more clear, these following Arguments, from the Act it self and the Title of it, do more apparently evince it.

1. To begin with the Title: Which is, *An Act to prevent inconveniencies that may happen by the untimely adjourning, proroguing, or dissolving of this present Parliament*: Which inconveniencies are specified in the following preamble of the said Act, whereof chiefly one is this. *Left Credit should not be obtained for raising of Monies for relief of his Majesties Army, and people in the North, and for supply of other his Majesties present and urgent occasions through the continued fears of the Subjects, left the Parliament may be adjourned, prorogued, or dissolved, before sufficient provision be made for repayment of the said monies to be raised.*

In which words there are two things principally to be considered in reference to the intent and meaning of this Act, why it was made.

First, For the obtaining of Credit, in order to the raising of considerable Sums of money for supply of the Kings, and Kingdoms

dome great neceſſities: which could never have been done, (as by the Act it ſelf is ſuppoſed) had not this Act been made: It being the only ground and foundation of encouragement for the Credit which was to be given in order to the raiſing of the ſaid monies; and did accordingly effect it.

Secondly, The Parliament could not without this be in any ſecure condition to make proviſion for the repayment of the ſaid money ſo to be raiſed, in regard that through defect of ſuch an Act, the Parliament might be in continual danger to be untimely diſſolved, (and by the clear ſcope of the Act, 'tis accounted an untimely diſſolution, if diſſolved before the ſaid proviſion be made) therefore the diſſolution of the ſaid Parliament before ſuch proviſion made for repayment of the ſaid monies, which is not yet done, is expreſly contrary to the true meaning and intention of this Act.

And if this Act were made purpoſely to prevent the untimely diſſolution of the Parliament, (as it ſtands expreſs in the Title) then it cannot but have reſpect to the Kings Death, as well as to any other means of untimely diſſolution: The Parliament well knowing the Kings life was as uncertain, yea, in ſome reſpects more uncertain than the life of other men: And therefore could not, chooſe but ſo underſtand it, if they intended this Act to be any ſecurity for the monies borrowed, or to be borrowed upon their Credit.

Secondly, In the ſubſtance and body of the Act 'tis delivered in expreſs terms, *That this preſent Parliament ſhall not be diſſolved, but by an Act of Parliament.* Whence it follows, that if not diſſolvable, unleſs by an Act of Parliament, then it is excluſive to all other waies and means of diſſolution (as the interruption by armed violence, the forcible omiſſion of daies of adjournment, the violent, or natural death of the King) or whatſoever elſe might be done or have happened legally to diſſolve it, had not this Act been made or conſtituted.

Thirdly, and laſtly, To make all clear, without any exception, in the cloſe of the ſaid Act it is expreſſed, *That all, and every thing, and things, whatſoever done, or to be done, for the adjourning, proroguing, or diſſolving of this preſent Parliament, contrary to this Act, ſhall be utterly void and of none effect.* Which clauſe you

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ſee looks backward, and forwards in reference to whatſoever had a legal power and tendency before this Act to diſſolve the Parliament. Againſt which this Act hath now fully provided, that neither what hath been done for the time paſt, nor whatſoever ſhall be done for time to come, ſhall diſſolve this Parliament, excepting an Act of the ſaid Parliament. Whence I argue, That all thoſe things that otherwiſe legally would or might have diſſolved this Parliament, had not this Act been made, have no force or efficacy to diſſolve this, but only an Act of this preſent Parliament. All other Parliaments having no legal capacity till this be legally diſſolved: unleſs it be granted that two Parliaments may have both of them legal capacity at one and the ſame time. Which I believe there are none ſo abſurd as to aver; no more, then that two Kings may have a legal capacity at one time in the ſame Kingdom.

But becauſe there are divers objections, that ſeem to oppoſe the premiſes, and the legal being and capacity of the ſaid Parliament, I ſhall endeavour to anſwer them as ſtrongly, and yet as briefly as I may to every ordinary Readers underſtanding.

The firſt, and grand Objection of all is the death of the late King that ſummoned this Parliament in the year 1640. and is argued by Mr. *Wil. Prin.* Becauſe, ſaith he, *it hath been frequently reſolved by Parliaments themſelves, the reverend Judges, and our Law Books, by King* Charles *his own Declaration, and his Judges, and Council, that the depoſition and death of the King doth actually diſſolve the Parliament*, &c.

See his true and perfect narrative of what was done and ſpoken by and between Mr. *Prin* and the old, and newly forcibly ſecluded members, beginning fol. 24. and ſo forwards, Printed in the year 1659.

To which I anſwer by way of Conceſſion, that the Death of the King doth legally, or according to Cuſtome, diſſolve a Parliament that is only call'd and conſtituted by the Kings Writ; but not a Parliament conſtituted and confirmed by an Act of the three Eſtates. Let Mr. *Prin*, or any other Lawyer ſhew me any Law or preſident to that purpoſe, and I will preſently yield the Cauſe.

If Mr. *Prin* would have ſpoken home to this Caſe, he ſhould have made it appear where, or when it had been reſolved by Parliament, the Judges, and our Law Books, *&c.* that in caſe of an Act of Parliament made for the Seſſion, and continuance of

a Parliament, till they ſhould diſſolve themſelves by an Act, that ſuch a Parliament hath been, or ſhall nevertheleſs be diſſolved by the Kings death, which it is believed he will find a very hard task to prove.

Secondly, He objects, *the Parliament is no ſtanding Court, ſitting at certain ſeaſons by poſitive Laws, but ſummoned and conſtituted by the Kings Writ of Summons, and Royal Prerogative, when, and where he pleaſeth, and adjourned, prorogued and diſſolved by his Writ alone in point of Law*, &c.

I anſwer again, by way of Conceſſion; that Parliaments, according to their wonted and by-paſt Cuſtomes, were no certain Courts, ſitting at certain ſeaſons by poſitive Laws. But yet may be made ſuch by Act of the three Eſtates. Witneſs the Triennial Parliament.

And further, By an extraordinary grant of his late Majeſty, this Parliament was made a ſtanding Court to ſit conſtantly by a poſitive Law, till they ſhould pleaſe to diſſolve themſelves. He having been pleaſed by the ſaid grant, for the better ſecurity of his Subjects, to wave his Royal Prerogative and power of diſſolution; and to give his conſent for the nulling of all other means tending thereunto.

And for what Mr. *Prin* intimates further in the ſaid Objection: *That becauſe all Writs of Summons are actually abated by the Kings death, as well as all other Commiſſions, and Patents of all Judges, Juſtices*, &c. *That therefore this Parliament muſt needs be diſſolved.*

I anſwer: That doth not at all follow, till he can make it appear, that there is no more validity in an Act of Parliament of the three Eſtates, than there is in a meer Writ of Summons, or a Commiſſion or Patent granted only by the King: For though this Parliament was ſummoned by the Kings Writ, yet 'tis manifeſt, its continuance and confirmation did not at all depend upon that (for then he might ſtill have diſſolved it when he pleaſed) but upon the Act of the three Eſtates, who had eſtabliſhed it by Law, and ſo was now no more diſſolvable by the Kings Death than any other Statute Law, or Act of Parliament whatſoever. And therefore is not depending on ſo fickle a thing as a Writ of Summons, or a Patent, or Commiſſion

given the Judges, and which the King may take away and repeal again at his own pleasure.

And to illustrate this more by an instance, I shall desire to aske Mr. *Prin* this Question. Put case that there are certain urgent necessities (as before specified in the Act) that the Parliament hath of great Sums of Money for preserving the Peace of the Kingdome. This money they must take-up upon their Credits: But they see no waies how to raise, or repay it, unless their Session be continued for seven years. Therefore to get Credit for raising the said Money, and time to reimburse, or give security to the Lenders, they obtain the Kings consent to an Act for their continuance during the said term (with this Proviso inserted) though the King by any accident should happen to die before the said security were given, or the moneys paid. Whether doth the Parliament in this case continue in force and efficacy after the Kings Death, or is it then actually dissolved?

If Mr. *Prin* grant it a Parliament in force after the Kings Death upon this consideration (as I conceive he cannot deny it) then 'tis apparent, that 'tis not the Kings Death barely that doth of it self dissolve a Parliament, *viz.* I say, a Parliament stablished by a Law: and consequently then not this Parliament, the reason being alike for the one as for the other.

But if he shall aver, (which to me is incredible) that notwithstanding such an Act, yet by the Kings Death 'tis legally dissolved. Then it will necessarily follow, that Parliament security (which was ever lookt upon till now as inviolable) is most dangerous, and of all others least to be trusted, and the Subjects had need be warned to take heed of it; seeing it must wholly depend upon so uncertain a thing as the Kings Life; which as it throws no small dishonour upon that High Court, So it will be no little prejudice to publike emergencies. For if the King die half a year after the Moneys borrowed, and before the security be given (and he hath no surer or longer a lease of his life than other men) all the said moneys must absolutely be lost, and so the Subjects defrauded: No future Parliament being bound to make good the Acts and Deeds of a Former, further than they will or please themselves: And it is to be wisht,

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that this Kingdom may not now too sadly have experience of it.

Thirdly, Mr. *Prin* objects, *the Kings name in which the Writs for Election are issued forth: That because they go out in the name of the King raigning, and so calls the persons elected to advise with him personally; and the Parliament to be convn'd is call'd his Parliament, and is to consult of the arduous businesses of the Kingdom concerning him,* &c. *Therefore when the King dies who call'd the Parliament to advise and consult with himself, the Parliament must necessarily be dissolved, unless they could be supposed to consult and advise with him of the weighty affairs of his Kingdom after his decease.*

To this I answer first, That though the Writs of Summons run, to consult with the King personally or by name, yet they say not, to consult with him only, and so are not so exclusive (having respect to the reason and equity of the Law) but that the same Parliament may also consult with his Successor, if the Peace and safety of the Kingdom do require: Granting this Maxime to be undeniably true, that the safety of the people is the supream Law.

And though the Parliament summoned by the Kings Writs be called his Parliament, yet his death doth no more vacate it (being established by Law) than it doth other Laws by the same King made, which are most properly call'd his Laws, because enacted with his personal consent: and yet we know that they are not so his, but that they are also the Laws of his Successors, and are so commonly call'd.

Besides, By constituting the Parliament to dure till they dissolve themselves by an Act, the King virtually waved the authority of his Writs of Summons, in which Writs the Parliament is expresst to be called to consult with him by name: No such thing being in the least said or expresst in the Act by which this Parliament is now confirmed to continue, *&c.* Therefore it matters not, neither is it at all to the purpose in this case, how, or in what name the Writs of Summons, whereby this Parliament was first called, were issued forth: Forasmuch as this Parliament consists no longer by any authority derivative from those Writs, (that Foundation being wholly taken away) but

only by Act of the three Estates, as is evident in that the King could not now dissolve it by his personal Authority any more. And if his personal Authority, he being living (which is affirmative) could not dissolve it; then his death, which is but negative, or a cessation of the influence of his personal Authority, can much less do it.

And farther, By way of interrogation I would ask Mr. *Prin*, Whether he will grant any more priviledge (in the case of the Kings Death) to a Parliament stablished by a Law, then he will do to a Parliament only call'd and constituted by the Kings Writs, (between which he cannot surely but say there is a very wide difference.) And if he yields the priviledge doth excel (as he must needs) on the side of that Parliament that is establisht by a Law: In what sence can he conceive it to be, as the case here put, unless by the duration of its Authority after the Kings Death who call'd it: Of which Priviledge the Parliament only constituted by the Kings Writs comes short, and failes, as before acknowledged, by the Kings Death.

And I would fain know what reason there is, that a strained exposition of a Statute Law as this is (that this Parliament should be dissolved by the Kings Death) should take place against the expres litteral sence of it, which is, (that it shall not be dissolved, but by an Act:) When as the strained sence also is evidently dangerous, unsafe, and prejudicial to the publike, but the litteral exceeding beneficial.

The calling of Parliaments, in this or that Kings name, to consult or advise with this or that King, these are but circumstantial things, and done for orders sake, and nothing of the substantials and essence of the Government and Kingdoms welfare. And therefore if Parliaments, call'd in this or that Kings name, to advise with this or that King, should continue in force (though there were no Act for it) after this or that Kings Death, there were no danger or inconvenience in it (how much less when an Act, as now, implicitely passed to that purpose) but rather the contrary. They may consult with as much safety and advantage to the Kingdom with the Successor, as they did with the deceased King.

But to dissolve Parliaments rashly and untimely may throw

throw a well-ſetled Kingdom into very great and hazardous difficulties: And how ſad a thing were it, and how contrary to the general rule of the peoples ſafety (which in the Government of a Nation ought to be valued before any thing, and is the end of Government) if for circumſtances the general welfare and Peace of the Kingdom muſt be hazarded.

Fourthly, As to what M. *Prin* objects concerning *a man by his Will or Deed, or the King by his Commiſſion, or the Parliament by ſpecial Act and Order authorizing and impowring any three perſons joyntly to ſell Land, give Livery and ſeiſin, execute any Commiſſion*, &c. *and that in caſe any of them die, the two ſurvivers joyntly, or ſeverally can do nothing; becauſe their authority and truſt was joynt and not ſeveral*, &c. Applying this to the Parliament, *which being* (as he now expreſſeth it) *a Corporation compacted joyntly of the King, Lords, and Commons Houſe, and three Eſtates, that therefore the Death of the King neceſſarily diſſolves it notwithſtanding this Act.*

I anſwer, This doth no more prove it than any of his former Arguments. For this ſimilitude doth not hold proportion, nor come up to our preſent Caſe.

For we have not here to do with one Eſtate or more that hath abſolute power in it ſelf (and intends to execute it) to conſtitute other perſons for any office or truſt, as a ſingle perſon, *&c.* that makes a Will or Deed doth conſtitute three or more perſons in truſt for the execution of his Will or Deed, whoſe joynt power being expreſt in the ſaid Will or Deed, it neceſſarily failes upon the death of any one of them, becauſe joyntly and not ſeverally intruſted.

But with a Parliament, *Who have voluntarily engaged themſelves* upon a truſt and Credit received from the people for their ſecurity, with the conſent of the King making a Law to preſerve their Seſſion, *and eſtabliſh their own Authority* againſt all means of their untimely diſſolution *till they had honourably diſcharged their truſt*, and given ſecurity and ſatisfaction to thoſe that gave them Credit: Which nothing concerns any Power or Authority to be given to others, whether three or more perſons (according to Mr. *Prins* inſtance) to be executed joyntly, wherein a failer may be through any one of their deaths.

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But because there seems so nothing still to be unanswered to this Objection in reference to the conjunctive power of the Parliament consisting of three Estates. Therefore this also is fully resolved in the following answer to what Mr. *Prin* intimates concerning the Kings being a part of the Parliament: Who saith,

That because the King is a part of the Parliament: Therefore if the King dies, the Parliament must needs be dissolved.

To which I answer, That the King is rather a part of the Parliament in his Politick than in his personal capacity, which is always subject to death, but his Politick never. With this agrees that famous Lawyer Sir *Edward Cook*, (see the third part of his Institutes, Chapter the first) where speaking of the High Court of Parliament, and of what persons it consisteth, saith in the first place, and in express words: That it consists of the Kings Majesty sitting there, as in his Royal Politick capacity, *&c.* And if so, then the Parliament dies not in all cases when the King dies: (and if this holds good in any case, then surely in case of an Act to that purpose.) For though his person be dead, yet his Royal Authority lives, as is sufficiently evident by the Force and Authority of all our Laws still repealed by Act of Parliament.

But besides, it may thus farther be argued clearly. The Members of the two Houses of Parliament, though many of them die (as oft times it comes to pass, and 'tis possible they may all die by degrees before the Parliament rise) yet the Parliament is not dissolved, because they are not now the very same individual persons that were chosen first by the Kings Writs of Summons. 'Tis sufficient that there have been new Writs issued forth from that House, or Estate of Parliament whereof they were Members, whereby new Elections, *&c.* have been made, and so other Members returned to supply the places of the dead ones. And if this be good in the case of the two Houses of Parliament, *&c.* (which no man that understands Law, and the usage of Parliaments will deny) then it is much more good in the case of the Kings Majesties Person: Whose Royal Estate and Authority is so evident, that it is a declared, undeniable Maxime in our Laws, He never dies. So that what

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new Writs do legally for ſupply of the places of the dead Members to continue the Eſtate and Authority of the two Houſes of Parliament: that, and much more eminently the Kings immediate ſucceſſion to the Crown after his Fathers or Predeceſſors death doth do, by vertue of his Royal birth-right and Title of Inheritance. There being this grand difference, between Members of Parliament dying, and the King. They ſo die, that their Authority cannot be revived, but by new Elections, or Writs of Summons. But the King ſo dies, that his Authority ſtill lives by immediate ſucceſſion. Whence it is that the Royal Seat is never vacant, that there ſhould be a failer to make good the Royal Actions of the Predeceſſor. And thus the third Eſtate in Parliament always Living, *the joynt power ſtill continues*, and ſo there is no neceſſity the Parliament ſhould diſſolve, as Mr. *Prin* affirms, due circumſtances and actions being weighed, and the neceſſities of the Kingdom well conſidered.

Fifthly, Therefore by what hath been ſaid already, Mr. *Prins* fifth and laſt Argument muſt needs be out of doors, which is this, *That becauſe the end of Parliaments is to enact new Laws, and repeal others, &c. which cannot be done but by the Kings aſſent: And this Parliament being to be diſſolved by an Act, and an Act being now impoſſible to be made by that King for the diſſolution of it, he being dead; therefore his Death muſt needs diſſolve the Parliament notwithſtanding this Act.*

I anſwer in the Negative, In no wiſe. For though he be dead, as aforeſaid in his perſonal, (which Mr. *Prin* ſeems to anſwer too weakly in his following objection) yet not in his Politick capacity. And therefore if the dead King cannot enact Laws by the Parliament, yet his Succeſſor can, who comes immediately to the Crown after his Fathers death. And as hath been ſhewed, 'tis no waies inconvenient, but may many waies be advantageous to the Publike; That ſhould the King chance any waies untimely to be taken away, the Parliament ſhould continue after the Kings death. Whoſe death if it ſhould neceſſarily, as Mr. *Prin* affirms, diſſolve the Parliament; ſo untimely a diſſolution, as the caſe might ſtand, might prove very dangerous, and pernicious to the Kingdom.

Beſides,

Besides, The Act doth not limit the Parliaments dissolution as lawful only, if it be done by an Act of that King then living, when the Act was made: But in the general it limits it to an Act of Parliament: that it shall not be dissolved but by an Act of Parliament. And why the Predecessors authority and consent should not be as binding to his Successor in this case, till so dissolved, as in case of any other Law made with his consent, I would very gladly know a solid reason for it: Being that to all intents and purposes an Act for confirmation, or dissolution may be as virtual and efficacious without any prejudice by the consent and authority of the Successor, as of the Father.

And further, the Act is also herein expres, that by no other way or means, *but by an Act of Parliament, it shall be dissolved.* Which being it cannot be done by the dead King, but may be done by the Successor, it ought so to be dissolved, or else it must and doth by vertue of this Act still remain legally in full being and authority.

Sixthly, As to what may be objected concerning the dissolution of this Parliament by an Act, when the secluded Members were lately admitted. The Argument is so weak, that I thought wholly to have omitted the least mention of it. Yet in regard it is objected by some, who seem to receive satisfaction by it, and there to acquiesce, I shall give this answer in brief to it.

First, That at the best that was but an Act (so called) of the House of Commons; and so consequently far short of the authority of an Act of Parliament, or any legal pretence of it: which only consists of King, Lords, and Commons. And therefore by any such appellative Act, this Parliament can no waies be dissolvable.

And further, The utmost authority that the House of Commons hath given them by the foresaid Act (for the continuation of this Parliament till they dissolve themselves by an Act) is but to adjourn themselves by an Order of their own House, as is expres in the said Act. By which 'tis evident, they have no power to dissolve themselves; much less, by any Act they can do to dissolve the Parliament.

And here it is worth the observing, (before I pass over this Act

Act of the House of Commons, whereby it was endeavoured to dissolve the Parliament) That in their judgements and consciences there was need of an Act to dissolve the Parliament: And therefore by this Act of theirs they did implicitly grant, that before the passing of the said Act the Parliament was not then dissolved: (and so consequently did acknowledge it not to be dissolved by the Kings Death, which happened many years before,) and if not dissolved by the Kings Death: then much less by the said Act of the House of Commons, (which carries not the least shadow of legal Authority with it, as aforesaid, for the dissolution of it) and therefore by the judgement of the said House, rightly understood, 'tis still legally in force and being.

But because some do Object, that in regard the Lords spiritual (to wit) the Bishops, were oured the House of Peers before the passing this Act for continuation of the Parliament, whereby their Votes and Consents were never had in the Case, that therefore it was an illegal Act, and so felt void in it self.

I answer briefly, That the Abbots and Priors (29. in number, who were formerly Lords of Parliament, and held *per Baroniam* from the King, and had their Seats and Votes in the House of Peers as well as the Temporal Lords) were dissolved in the Reign of King *Henry* the 8th. And yet all Parliaments since, with all their Acts, have been held for Legal and Authentick without the least question or contradiction of their Authority, and therefore is as little to be scrupled here in our present Case, which is the same; The Bishops Priviledge and right to sit in Parliament being also null and made void, as well as theirs by Act of Parliament. Whereunto much more might here be said to this purpose, but that I would not be tedious.

See Sir *Edw. Cook* in his third part of Instit. of the High Court of Parliament, how the Lords give their Voyces, Pa 35.

Seventhly, I have but one word more, which answers most fully and unquestionably all Mr. *Prins* Objections at once, or what else may be said for the dissolution of this Parliament by the Kings Death. And that is taken from the supream legislative authority under God, that the three Estates, *viz.* King, Lords, and Commons, legally called, have over all persons and Causes in the whole Nation: By vertue whereof they have

power to do the higheſt actions the Nation is capable of, though it be even to the diſmembring of the Parliament it ſelf, and diſſolving a conſiderable part of it, or altering any other Fundamental Conſtitutions they pleaſe, ſo they ſee it neceſſary for the publike good (as particularly in the Caſe of the Biſhops, call'd the ſpiritual Lords, and by ſome affirmed to be the third Eſtate in Parliament, who nevertheleſs have been excluded by an Act of the King, Lords, and Commons, from their ancient right of ſitting and voting in Parliament, when in their wiſdoms their Seſſion there appeared hurtful to Church and State,) For who may queſtion or controul the Actions of a lawful Parliament, while none in the Kingdom can ſo much as pretend to be above them. And if their authority be of ſo large an extent, even in matters of greateſt weight and moment: then much more in things of far inferiour, and much leſs concernment, as is the confirmation of a Parliament to continue after the Kings death who call'd it, if the three Eſtates ſhall ſee good to paſs an Act, as now they have done to that purpoſe, (implicitely, though not in expreſs terms) the King hapning to die before it hath been diſſolved by an Act of Parliament, as by the three Eſtates hath been firmly enacted, it ſhould be ſo diſſolved, and no otherwiſe.

See Sir *Edw. Cook* the third part of his Inſtitutes of the High Court of Parl. of the power and Juriſdict. of the Parl. fol. 36. who ſaith, That the Power and juriſdiction of the Parl. for making of Laws, in proceeding by Bill, is ſo tranſcendent and abſolute, as it cannot be confined either for cauſes or perſons within any bounds, &c.

By this time it may be hoped the legal being and Authority of the Long Parliament is ſufficiently evident; The truth whereof being ſo clearly proved both by Law and Reaſon, how much doth it unfold to us the ſad and dangerous eſtate of the Kingdom, whileſt under the Conſtitution of ſuch powers as neither in Eſtate, Liberty, or Life, (though otherwiſe of good Inclinations to the Publick) can give the Nation any legal ſecurity.

For though many excellent things have been done by the ſingular wiſdome of this preſent Parliament, now ſitting, that are of ſpecial tendency in themſelves for the good and ſafety of the Nation through his Majeſties moſt gracious condiſcention, for which we have infinite cauſe to bleſs God; Yet herein the great unhappineſs; That whileſt their Authority is not legally founded, the Nation can promiſe themſelves no aſſurance for the laſting enjoyment of thoſe benefits and ſecurities they

Vide Poſtſcript.

have

have given it, being, 'tis to be feared, and too justly, they fall void of themselves by vertue of the said Parliaments illegal Policy and Constitution.

Therefore how much were it to be wished, that the Supream Legislative Authority of the Nation might again revert into that Channel by which the Peace and Settlement of the Nation, through His Majesties most Gracious Influence, might durably, and without question, be provided for, and preserved.

In reference to which I shall humbly take the boldness to offer it as a weighty and serious consideration to this present Parliament now sitting, whether they should not do well (for their own safety as well as the Nations) to advise his Majesty in this particular; (They only having the priviledge and opportunity now effectually to do it) their case in point of safety or danger being the same with the rest of the peoples, when once they shall come to be dissolved.

But now here, because the fears and scruples which at first apprehension are apt to arise in the hearts of the Generality of the Kingdom, may seem a great Obstruction in Prudence against the return of that Parliament to sit again, in reference to the danger of perpetuating of it, Who therefore may be ready to say, By so doing we may inslave King and Kingdom to such a yoak of Bondage as we may never be able to break off our own necks, or the necks of our Posterity any more.

I shall give hereunto this closing answer; That the scruple is very rational; and though such a thing there is a possibility they might do or attempt, (though very improbably effect) if they should so wickedly abuse their trust; yet those fears will soon be removed from wise and discreet persons, if we do but seriously consider, That the far greater number of the Members surviving are of the secluded Party, who were thrust and forced out of the House for their Loyalty to the King: Or of those that withdrew themselves upon the offence given by occasion of the Armies violence against King & Parliament; and have been the chief Instruments of his present Majesties happy restoration. And therefore, being persons so qualified, we may easily believe they will not be very willing to draw such an *Odium* upon their unstained Credits, as will inevitably follow,

(besides the further mischiefs will be apt to ensue to themselves, and the Nation by renewed discontents) should they go about to ingross the Authority of the Nation any longer in their own hands than will be necessary for publick safety with his present Majesties Approbation? Who for further security against those fears may easily summon them together by his Proclamation to *Whitehall*, or where else he pleaseth, before their Session again in Parliament, and there receive their personal promise, and ingagement to confirm the Acts of this present Parliament, and to prepare a Bill the first thing they do at a certain time to be agreed on betwixt his Majesty and them to dissolve themselves, and for his Majesties issuing out Writs for the summoning of a new Parliament, that so things may sweetly return again without violence or injury done either to his Majesties Prerogative, or his Peoples Liberties into a regular and legal way of proceeding to the general security and satisfaction of the whole.

POSTSCRIPT.

BEcause there are great and general dissatisfactions concerning this present Parliament, so call'd, now sitting, in question of its legal right and authority, (being the Authors design is nothing else but the peace and security of his native Country,) and a thorow healing of our wounds and breaches) he humbly desires further to offer these few following particulars to the grave and serious consideration of those that are more learned in the Laws, in hopes that some eminent person of that profession will give a solid and judicious resolution to them.

First, Sir *Edward Cook* in the third Part of his Institutes, writing of the High Court of Parliament, and of what persons that Court consists, speaking of the Temporal Lords, as Dukes, Marquesses, Earls, Viscounts, and Barons, who sit there by reason of their dignities which they hold by descent or Creation, saith, that every one of these being of full Age ought to have a Writ of Summons *ex debito Justitiæ*.

Where

Where note, two things are required to the legality of their Seſſion in Parliament.

Firſt, That they be of full Age. And if that be a qualification legally required of Peers (for it will eaſily be granted to be moſt abſurd and unjuſt, that they that have not power by Law (as all Infants under age have not) o diſpoſe of any part of their own Eſtates, or to make one legal act to that purpoſe) that ſuch ſhould have a ſhare in the ſupream power to judge, vote, and diſpoſe of the Eſtate & Authority of the whole Kingdom.) I ſay then by rule of proportion, that it is a qualification as neceſſarily required of the Commons upon the ſaid conſideration. And it were happy for this Nation therefore that it were better looked after for the future, that ſo thoſe miſchiefs may be prevented which too often enſue to the Publick by bringing ſuch green heads into ſo wiſe and grave a Councel.

Secondly, 'Tis required to their legal Seſſion in Parliament, that the ſaid Lords have Writs of Summons; which theſe now ſitting in this preſent Parliament never had.

Next, The ſaid Sir *Edward Cook* in the forecited place ſaith, that the Commons, which he calls there the third Eſtate of the Realm, conſiſting of Knights of Shires for Counties, Citizens of Cities, and Burgeſſes of Burroughs, they all are reſpectively to be elected by the Shires or Counties, Cities and Burroughs, by force of the Kings Writ *ex debito Juſtitiæ*. But the Commons of this preſent Parliament were not ſo choſen; but by force of a Writ in the name of the Keepers of the Liberties of *England*.

Thirdly, He ſaith, that at the return of the Writs the Parliament cannot begin but by the Royal preſence of the King, either in perſon, or by repreſentation. By repreſentation two waies: Either by a Guardian of *England* by Letters Patents under the Great Seal, when the King is in remote parts out of the Realm. Or by Commiſſion under the Great Seal of *England* to certain Lords of Parliament, repreſenting the Perſon of the King, he being within the Realm in reſpect of ſome infirmity. See Sir *Edward Cook* in his third Part of Inſtitutes of the High Court of Parliament concerning the beginnings of Parliaments, Page 6.) But this Parliament began without the

Royal

Royal presence of the King either in Person or by Representation.

Fourthly, That the substance of the Writs of Summons must continue in their original Essence without any alteration or addition, unless it be by Act of Parliament. (See the same Sir *Edward Cook* in his third Part of Institutes of the High Court of Parliament concerning Writs of Summons of Parliament, Page 10.) But how great an alteration and addition to the substance of the Writs of Summons is this, to issue them forth in the name of the Keepers of the Liberties of *England* without the least authority of Parliament, which by the express Statute ought only to be issued forth in the name of the King.

And therefore if there be any weight in Mr. *Prins* foresaid Argument to null a Parliament because of the Kings Death who call'd it, in regard the Writs of Summons were issued forth in the name of that King deceased, with whom by name the Members of Parliament were call'd to consult and advise, but now cannot: It will, I conceive, be no hard question to resolve, (and it were good Mr. *Prin* would undertake it without partiality, or affection) Whether the Parliament doth not *ipso facto* fall void, and all the Acts of it, further than they shall be confirmed by a lawful Parliament, which is not call'd by any Writs of the Kings at all: But only by Writs, as aforesaid, in the name of the Keepers of the Liberties of *England*, (and by those Writs, none but the Commons) with whom they are summoned to consult too about the businesses of a Commonwealth, (which these times have sufficiently taught us the meaning of) and not with the King about the arduous businesses of His Kingdom.

These premised illegalities considered, in reference to this present Parliament (the legal being and capacity, as premised, of the Long Parliament being supposed to be here totally waved) Whether is this a lawful Parliament, and capable to make legal and binding Acts? Or having been declared a lawful Parliament by an Act by themselves made since their Session with the Kings consent, Whether can the Kings consent make them such, though otherwise unlawful in their Call, Principle, and Foundation?

For

For I would put the caſe the King ſhould have come in while *Oliver*, or *Richards* Parliaments had been ſitting, (to which the Lords, as now, ſhould have preſented themſelves without Writs of Summons) and his Majeſty, under that conſtitution, ſhould have conſented to a Bill to grant them a lawful *Parliament*: Would that at all have made them ſo, under ſuch a Conſtitution? Can that which is unlawful in it ſelf, and contrary to the Fundamental Conſtitutions of the Nation be made lawful barely by the Kings Conſent?

Which if it ſhall be pleaded in the affirmative (though I very much queſtion whether any underſtanding Lawyer will venture his reputation on it) I ſhall deſire then to be inſtructed in a better Argument to make good the lawful being and authority of the Long *Parliament*. For ſurely, if a Parliament be lawful meerly becauſe of the Kings conſent, paſſing an Act to that purpoſe, though otherwiſe utterly unlawful in its Call and Foundation: Then doubtleſs that Parliament is much more lawful, and in its legal being that was founded upon a lawful Call, and had the Kings conſent to an Act to authorize it to continue till they diſſolve themſelves by an Act. And if that be ſtill a lawful Parliament, then I am ſure upon that account this can be none, nor no other, till that be legally diſſolved.

To which there is this further to be added concerning the intentions generally of the whole Nation in reference to this Parl. by the beſt information I can gather: That it was never in the leaſt meant that theſe ſhould ſit to paſs Acts as a lawful Parl. (which was only like to prove a ſnare to the people as other Parl. of the like nature, ſo-call'd, have done through the diſputableneſs & unwarrantableneſs of their Authority.) But only, that for the preſent neceſſity they might bear the face of Parliamentary Authority for preſerving the Peace of the Nation till his Royal Majeſty, that now is, might be happily reſtored, (the Kingdom panting after him as their only means of ſettlement) and ſo ſoon as that was effected then to diſſolve in order to the ſending forth his Majeſties Royal Writs of Summons for calling a Parliament according to the ancient Cuſtome and Fundamental Conſtitution, (the old Parliament being firſt legally diſſolved)

dissolved) that to all things might return again into a legal and unexceptionable way of proceedings, to the quiet of all mens minds, and satisfaction of the whole Kingdom, who are sufficiently weary of the mischiefs of irregular actings by illegal Authorities.

Conclusion.

IF the power of the Sword, or other arbitrary proceedings do not interpose to interrupt free debates, and the course of Law and Justice: which the Author hopes there is now no cause to fear as formerly (all Estates and Degrees in the Nation having sufficiently seen the inconvenience, and tasted the smart of such unrighteous actings) he doubts not (upon a serious consideration of the foregoing Arguments, if men will lay aside passion and self Interest) but that right foundations will shortly again be restored, that knowing our ground-work to be sure and unquestionable; the Subjects of all sorts in the Kingdom may with all safety and cheerfulness submit too, and act under the lawful powers in being, every one sitting in Peace under his own Vine and Fig-tree, blessing the God of his Salvation: Which is daily the Authors earnest and most hearty prayer.

FINIS.